

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 85-0489-RGS

UNITED STATES OF AMERICA,

v.

METROPOLITAN DISTRICT COMMISSION, et al.,

CIVIL ACTION NO. 83-1614-RGS

CONSERVATION LAW FOUNDATION OF NEW ENGLAND, INC.,

v.

METROPOLITAN DISTRICT COMMISSION,

SCHEDULE SEVEN COMPLIANCE ORDER NUMBER 230

January 7, 2014

STEARNS, D.J.

This is the two hundred and thirtieth Compliance Order that has issued in this litigation. On December 16, 2013, the Massachusetts Water Resources Authority (MWRA) filed its Quarterly Compliance and Progress Report. The United States and the Conservation Law Foundation have each indicated that they decline to file a response.

I. Schedule Seven

A. Activities Completed

1. Commence Construction of Interceptor Connection Relief and Floatables Control at Outfall SOM01A

As anticipated in previous reports and Orders, on August 30, 2013, the MWRA issued the Notice to Proceed with the construction contract for the SOM01A project, which involves an upgrade to the hydraulic capacity of the connection between the Tannery Brook Conduit and the Alewife Brook Conduit. The MWRA expects to complete construction by the end of this month, well ahead of the June 2014 Schedule Seven milestone.

II. Progress Report

B. Combined Sewer Overflow Program

1. CAM004 Sewer Separation

The MWRA reports that the City of Cambridge continues to make substantial progress on the CAM 004 sewer separation project. The \$17 million Contract 8A, which involves the installation of approximately 22,000 linear feet of sanitary sewer and storm drain pipe in the Huron Avenue, Fresh Pond, and Brattle Street vicinity, is now 65 percent complete. According to the MWRA, subsurface work related to sewer separation is nearing completion on all streets in the

Contract 8A area, and the remainder of the work is progressing according to plan. The MWRA is confident that utility coordination and relocations will not interfere with the timely completion of Contract 8A.

The MWRA additionally reports that on September 30, 2013, the City of Cambridge issued the Notice to Proceed with Contract 8B, which involves the separation of combined sewers in an 83-acre area bordered by Concord Avenue and Brattle Street. As previously noted, Contract 8B includes the installation of new sanitary sewers and storm drains in Huron Avenue (and several intersecting streets), amounting to 21,000 linear feet of new sanitary sewers and storm drains; 1,700 linear feet of trenchless pipe rehabilitation; and 13,230 linear feet of ductile iron water main pipe. The MWRA reports that the contractor has completed most of the preparatory work and is planning with NStar the gas pipeline relocations that will be required before sewer and drain construction can begin.

The City of Cambridge completed the Contract 9 project design and advertised for bids at the end of October of 2013. Contract 9 contemplates the installation of new sanitary sewers and storm drains along Concord Avenue (and intersecting streets) in order to separate

combined sewers in a 60-acre area from Fresh Pond Parkway to the intersection of Concord and Huron Avenues.¹ Cambridge closed the bidding in early December of 2013, and, as previously noted, will break ground on the project in January of 2014. Completion of Contract 9 is slated for December of 2015, in compliance with Schedule Seven.

The MWRA reports that despite the laudable progress on the Cambridge contracts, cost and schedule concerns remain, principally because of the limited in-state landfill space available for soil disposal. Two new in-state landfills have recently opened and a third is in the permitting process, offering the prospect of needed near-term relief.

2. Control Gate and Floatables Control at Outfall MWR003 and MWRA Rindge Avenue Siphon Relief

¹ According to the MWRA, a small portion of the work originally intended to be included in Contract 9, was omitted from the bid documents because Cambridge has been unable to obtain entry rights (by virtue of the property owner refusing access) to Concord Lane for site and utility investigations. The MWRA reports that Cambridge will continue to attempt to negotiate with the landowner, and may turn to the MWRA for assistance in the event that an accommodation is not reached. Cambridge may ultimately bid the Concord Lane work as a fourth construction contract, which it would hope to see completed in conformity with the Schedule Seven timetable.

The MWRA reports that it is making steady progress with this project, which is intended to upgrade the overflow hydraulic capacity at Outfall MWR003 (Alewife Brook). The ultimate object is to close Outfall CAM004 to achieve an overall reduction in the volume of CSO discharges into Alewife Brook. The design also recommends the augmentation of the hydraulic capacity of the Rindge Avenue Siphon, which delivers overflows to Outfall MWR003.

The MWRA reports that it received the completed design plans and contract specifications on November 19, 2013. The MWRA has met with representatives of the Cambridge Conservation Commission (CCC) and the Massachusetts Department of Conservation and Recreation (DCR), to discuss the implementation of the project. The MWRA will seek a wetlands order of conditions from the CCC, as well as a construction permit from the DCR (which holds title to the Alewife Brook Reservation). The MWRA is also coordinating with NStar and Verizon for the provision of the electric power and data communications necessary to operate an automated weir gate at MWR003. According to the MWRA, it expects to begin construction by August of 2014, in compliance with Schedule Seven.

3. Reserved Channel Sewer Separation

The MWRA reports that the Boston Water and Sewer Commission (BWSC) continues to make design and construction progress on the five remaining contracts that comprise the Reserved Channel sewer separation project. The \$10.8 million Contract 3B (which involves sewer separation in a 66-acre area adjacent to outfalls BOS078 and BOS079), is now 85 percent complete. The \$9.1 million Contract 4 (which involves sewer separation in a 182-acre area adjacent to outfalls BOS076, BOS078, and BOS079) is 70 percent complete.² The MWRA notes that Contract 3B remains on schedule for completion in October of 2014, and Contract 4 is on schedule for completion in August of 2015.

The MWRA additionally reports that the \$6.8 million Contract 8 (pavement restoration) is 35 percent complete; that the BWSC is progressing with the design for Contract 5 (cleaning and lining of existing sewers); and that the BWSC advertised Contract 6 (downspout disconnections) for bids on December 4, 2013. The MWRA expects that all work on the Reserved Channel Sewer

² The MWRA notes that the completion percentage for Contract 4 has remained unchanged since last quarter because the BWSC has added lengths of sewer, storm drain, and water main to the contract.

Separation project will be completed by December of 2015, in compliance with Schedule Seven.³

III. Comments

The court is pleased with the continued progress on all projects in the past quarter. On October 15, 2013, I had the honor of being invited to attend the Grand Opening of the Alewife Reservation Constructed Wetland, a 3.4 acre urban oasis occupying what had been a derelict wasteland situated behind and within easy walking distance of the Alewife Brook MBTA Station. In my remarks, which I will iterate in summary fashion here, I celebrated the Constructed Wetland as a “remarkable marriage of civil engineering with the best of science and environmental aesthetics, reflecting not only an innovative approach to CSO remediation, but also designed to become a permanent community resource.” Among the many who deserve credit for this achievement, I would like to particularly commend City of Cambridge Chief Engineer Owen O’Riordan, who oversaw the building and planting of the Constructed Wetland, and

³ The MWRA reports that the BWSC has requested approval to expand the sewer separation infrastructure into certain streets within the Reserved Channel Sewer Separation area in order to increase inflow removal. The MWRA is in the process of reviewing the request.

Cambridge Mayor Henrietta Davis and City Manager Richard Rossi, who provided the crucial municipal support that brought the Constructed Wetland to fruition. My prediction is that the Constructed Wetland will become a destination not only for citizens of Cambridge, but also for residents of the greater Boston area looking for a rustic experience in the midst of urban bustle. This is a job well done.

ORDER

The parties are ordered to report to the court as previously scheduled.

SO ORDERED.

/s/ Richard G. Stearns

UNITED STATES DISTRICT JUDGE